UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

)	
THE GENERAL HOSPITAL)	
CORPORATION and)	
DANA-FARBER CANCER)	
INSTITUTE, INC.,)	
)	
Plaintiffs,)	C.A. No. 1:18-cv-11360-IT
)	
V.)	
)	
ESOTERIX GENETIC)	
LABORATORIES, LLC and)	
LABORATORY CORPORATION)	
OF AMERICA HOLDINGS,)	
)	
Defendants.)	
)	

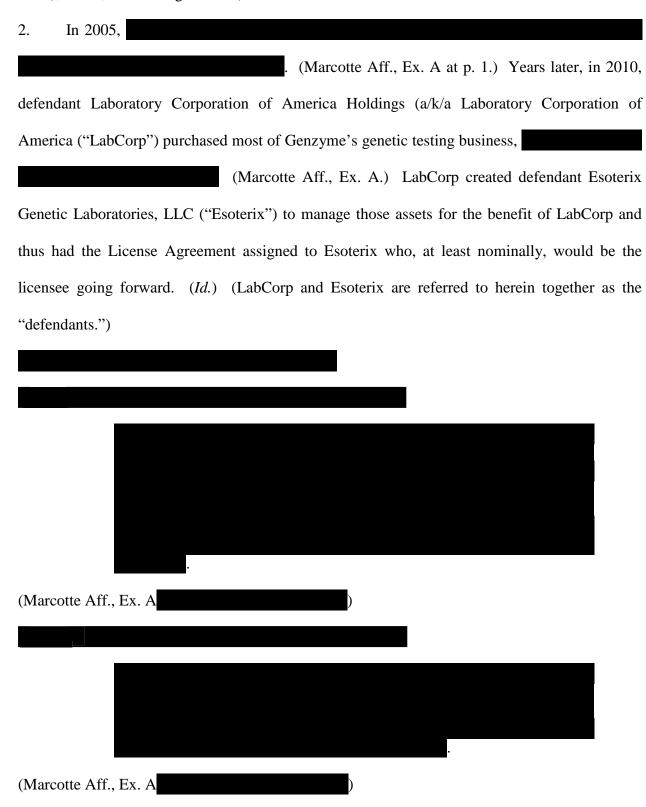
STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

In accordance with Federal Rule of Civil Procedure 56 and Rule 56.1 of the Local Rules of the United States District Court for the District of Massachusetts, the plaintiffs The General Hospital Corporation ("MGH") and Dana-Farber Cancer Institute, Inc. ("DFCI") (together, the "plaintiffs") submit the following statement of undisputed facts in support of their Motion for Partial Summary Judgment as to the breach of contract claim in Count I in the Amended Complaint.

The License Agreement

1. The plaintiffs own a number of patents directed to detecting the presence of the epidermal growth factor receptor ("EGFR") mutation which, when present, is predictive of the efficacy of certain chemotherapeutic treatments for lung cancer. (*See* Affidavit of Carolyn A. Marcotte in

Support of the Plaintiffs' Motion for Partial Summary Judgment submitted herewith ("Marcotte Aff."), Ex. A, License Agreement.)



The Sublicense and the Underlying Litigation					
6.					
	. (See Marcotte Aff., Ex. A				
7.	One such sub-license was granted in two different agreements to a company called DxS,				
Ltd., w	hose rights under the sub-license were later assumed by another company called				
QIAGE	N Manchester Ltd. ("QIAGEN"). (See Marcotte Aff., Ex. B,				
8. 1	In 2014, Esoterix sued QIAGEN for infringement of certain of the plaintiffs' patents,				
breach o	of the sublicense, and related claims in the United States District Court for the District of				
Massacl	nusetts, Case No. 14-cv-13228 (the "QIAGEN Litigation").) (Id.)				
9.	The defendants ultimately settled all claims in the QIAGEN Litigation. (<i>Id.</i> at pp. 1-2.)				
10.					
11.					

12.			
13.			
14.			
	Settlement Agreement		
15.			
		_	

18.			
19.			
		I	

20. The plaintiffs were ready, willing, and able to perform under the License Agreement. (*See* Marcotte Aff., Ex. E.)

Respectfully submitted,

THE GENERAL HOSPITAL CORPORATION AND DANA-FARBER CANCER INSTITUTE, INC. By their attorneys,

/s/ Carolyn A. Marcotte

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Dated: August 15, 2018

CERTIFICATE OF SERVICE

I, Carolyn A. Marcotte, counsel for the plaintiffs in the above-captioned matter, certify that on August 15, 2018, the plaintiffs' Statement of Undisputed Facts filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to the non-registered participants.

/s/ Carolyn A. Marcotte
Carolyn A. Marcotte